II. REMARKS

Reconsideration of the above-mentioned application in view of the amendments above and the remarks following is respectfully requested.

Claims 1–28 are pending in the application. Claims 1–16 and 18-28 stand rejected. Claims 1–13, 15-19 and 21-27 have now been amended. Claims 10, 14, 20, 27 and 28 have been canceled. New claims 29-35 have been added. No new matter is introduced by these amendments.

The Examiner has indicated that claim 17 contains allowable subject matter. New claim 29 is an independent claim which corresponds to a combination of claim 21 and claim 17.

After claim amendments and additions, claims 1-9, 11-13, 15-19, 21-26 and 29-35 are pending in the application.

A. 35 U.S.C. § 112 Rejections

Claims 1-20 and 23-27 stand rejected under 35 U.S.C. § 112, second paragraph.

Claims 1 and 20 have been rejected as being indefinite for failing to point out if the subject matter of the claims is a closure or a combination of a closure and a container. In response, Applicant amended claim 1 to claim the combination of a closure and a container. Claims 2-9, 11-13 and 15-19 were amended accordingly.

Claims 23 - 27 stand rejected under 35 U.S.C. § 112, second paragraph as being inconsistent with the claim from which they depend. In response, Applicant amended the claims to be dependent from claim 21.

B. Double Patenting

The Examiner has rejected claims 1-13 and 21 – 27 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over U.S. patent No.

6,988,828. The Examiner further rejected claims 1-16 and 18 –28 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over U.S. patent No. 6,988,828 in view of U.S. Patent No. 4,807,300. Submitted herewith for the Examiner's consideration is a terminal disclaimer pursuant to Rule 321. It is believed that this terminal disclaimer overcomes the Examiner's rejection of claims 1 – 16 and 18-28 under the judicially created doctrine of obviousness-type double patenting. Withdrawal of these rejections is therefore respectfully requested.

C. Prior Art Rejections

Claims 1, 2, 4-7, 21, 22, 24 and 25 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,082,897 (Galomb).

Claims 3, 8, 12, 23 and 26 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Galomb. Claims 1, 2, 4-10, 21, 22, 24 and 25 stand rejected under 35 U.S.C. § 103(a), as being unpatentable over U.S. Patent No. 5,037,138 (McClintock) in view of Galomb. Claims 1-16, 18, 20 and 28 stand rejected under 35 U.S.C. § 103(a), as being unpatentable over Galomb in view of U.S. Patent No. 4,807,300 (Aunsit). Claims 14 – 16, 18, 20 and 28 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over McClintock in view of Galomb and Aunsit.

Applicant has amended claim 1 to recite that the closure comprises two male units, two corresponding female units and at least one tongue member connected to at east one of said units. Claim 21 was amended to recite that the closure comprises two or three male units, two or three corresponding female units and at least one tongue member connected to at east one of said units.

1. Claims Rejection under 35 USC §102 and 35 USC §103 over Galomb '89

Claims 1, 2, 3, 4-8, 12, and 21-25 stand rejected under 35 U.S.C. § 102(b) as being anticipated by, or unpatentable over, U.S. Patent No. 6,082,897 (Galomb).

Applicant respectfully traverses the Examiner's rejections, at least in view of the amendments to claims 1 and 21.

Galomb 897' discloses a snap closure for a flexible gusseted package made up of a pair of elongated elements, disposed on the outer surfaces of the package walls and arranged to be pressed together. The closure elements are segmented into a plurality of short segments flexibly connected to each other for allowing flexing the closure outwardly for facilitating opening the package. In accordance with Galomb '897, the male and female strings are each having a plurality of slits. However, these slits do not extend fully through the strings to divide the strings into separate parts. Rather, the slits extend only partially to form a plurality of flexible joints 410 and 414 (see Figs. 13, 15; col. 12 lines 33 and 37-48; and col. 3 line 58 to col. 4 line 2). Thus, as explicitly stated on col. 3 line 66, the segments "are flexibly connected to each other".

In contrast, the closure of the invention comprises distinct male units which are separated from each other by a gap and distinct female units, also separated by a gap. Furthermore, the closure of the present invention comprises only a few male-female pairs which are not necessarily short but may have a length of substantially half the packet width when only two pairs are used..

The differences between Galomb's and the present invention, namely a plurality of connected segments vs. a few separate units, result in different types of closure. The closure taught by Galomb '897 is designed to flex outwardly for facilitating opening of the closure. However, as explicitly stated on col. 6 lines 37-43, the closure strings are designed so as to be bent out by the application of force but to return to their original shape after removal of the force. Thus, when the package is opened, the strings would return to their substantially linear condition, meaning that the closure cannot be used successfully with a non-gusseted package since a constant force would have to be applied in order to keep the package open. In other words, what enables the package to remain open is the inherent separation between opposite walls in a gusseted package and not the nature of the closure. This is in contrary to the present invention where the closure remains open indefinitely until it is snapped back together with any type of package due to the hinges formed between the separate male and female units. Furthermore, the closure of the present invention allows for the formation of a low polygon mouth (such as a diamond) with angled corners which facilitates pouring the contents of the package. This is in contrary to Galomb's closure in which the closure strings can assume only an arched shape with no well-defined corners.

Regarding claims 3 and 23, Examiner states that "It would be obvious to one ordinary skill in the art at the time of the invention to eliminate the gusseted sides of Galomb '897 and directly connect the front and rear walls to each other". Applicant respectfully submits that, as explained above, the closure taught by Galomb '897 is not suitable, nor is designed, for use with non-gusseted packages since it cannot form an open mouth with such packages without applying a constant force. Moreover, throughout Galomb's specification it is emphasized that the invention is addressed at gusseted packages. In particular the "Objects of the invention" section explicitly specifies that all the objectives of the invention are directed at a gusseted package.

Regarding claim 8, Examiner asserts that it would have been obvious to select metal or metal alloy for the closure of Galomb. Applicants respectfully submit that Galomb's only mention plastic material. Applicant would also like to point out that using metal for Galomb's closure is unlikely since metal would not allow itself easily to be segmented by Galomb's slits. The present closure, on the other hand, which comprises separate units can be easily made from metal.

2. Claims Rejection under 35 USC §103 over McClilinock '138 and Galomb '897

Claims 1, 2, 4-10, 21, 22, 24 and 25 have been rejected under 35 U.S.C. 103 (a) as being unpatentable over McClilinock et al. (US No. 5,037,138) and Galomb '897. Applicant respectfully traverses the Examiner's rejections.

Examiner asserts that Fig. 7d of McClilinock et al. discloses the claimed device except for the male and female units being disposed a gap apart. Examiner further asserts that it would be obvious to provide the male and female with the slits of Galomb.

Applicant respectfully submits that the closure taught by McClilinock et al. operates completely differently and has a different structure from the closure of the present invention. The closure taught by McClilinock et al. may consist of only one string (26) having a central crease (28) along its length. The central cease defines an abutment surface that holds the two walls against each other in the closed position. The string is configured to be biased to the closed position (see col. 3 lines 42-44) and to snap out into the open position when force is applied. This is achieved by a central horizontal crease which allows the string to flatten around the crease in the open position (see Fig. 4) and the central hinge (34) which allows the string to bend out. However, the closure disclosed by the present invention is not biased to the closed position, neither it has a horizontal crease or is flatten in the open position. Furthermore, when external, the closure disclosed by McClilinock et al. is connected to the wall only at its ends and even when two strings are used, they do not fit into each other in a male-female configuration but are only pressed against each other along the central crease 28 (see col. 2 lines 59-64). Regarding Galomb, Applicant respectfully argues that Galomb doe not teach the male and female units to be disposed a gap apart. The slits taught by Galomb do not extend fully through the strings to form separate units. Galomb's slits only allow the strings to bend out while force is applied. The closure of the present invention, on the other hand, comprises distinct units separated by a gap that allow the formation of polygon-like mouth with well-defined corners.

Accordingly, Applicant respectfully argues that combining the teachings of Galomb and McClilinock et al. do not teach the features of the present invention, neither it renders the present invention obvious.

3. Claims Rejection under 35 USC §103 over Galomb '897 in view of Aunsit '300

Claims 14-16, 18, 20 and 28 have been rejected under 35 U.S.C. 102 (a) as being unpatentable over Galomb '897 in view of Aunsit '300. Applicant respectfully traverses the Examiner's rejections.

Examiner asserts that McClintock et al. '138 and Galomb '897 disclose the claimed device except for at least one tongue member connected to at least one of the male and the female member. Examiner further asserts that Aunsit '300 discloses that it is known in the art to provide flanges on analogous males and females units.

Applicant respectfully submits that the teaching of Galomb '897 does not disclose the present device, at least in view of the amendments to the claims, as explained in paragraph (a) above. Further, applicant submits that the flanges taught by Aunsit '300 are completely different from the tongue member of the present invention as disclosed in associations-with Figs. 9 and 10. The present invention teaches a pulling tongue which is a tab piece connected to the closure near the gap between the male units and/or the female units and allows to pull open the closure with minimal force due to the weak point created by the gap. In contrary, the flanges taught by Aunsit '300 extend the full width of the package walls and are either the terminal end portions of the closure (68) or the terminal end portions of the package walls (88, 105). The flanges as taught by Aunsit serve to provide reenforcement to the bag wall pull flanges (col. 6 lines 58-60), namely to the upper rims of the bag which extend above the closure (analogue, for example, to portion 35 in Figs. 1 of the present application). This is completely different from the pulling tongue of the present invention which, when pulled, extends perpendicularly to the closure plane and not at the same plane of the closure, as Aunsit's flange.

Accordingly, Applicant respectfully argues that combining the teachings of Galomb and Aunsit do not teach the features of the present invention, neither it renders the present invention obvious.

4. Claims Rejection under 35 USC §103 over McClilinock '138, Galomb '897 and Aunsit '300.

Claims 14-16, 18, 20 and 28 have been rejected under 35 U.S.C. 102 (a) as being unpatentable over McClilinock et al. and Galomb '897 in view of Aunsit '300. Applicant respectfully traverses the Examiner's rejections.

Examiner asserts that McClintock et al. '138 and Galomb '897 disclose the claimed device except for at least one tongue member connected to at least one of the male and the female member. Examiner further asserts that Aunsit '300 discloses that it is known in the art to provide flanges on analogous males and females units.

Applicant respectfully submits that the teaching of McClintock et al. '138 and Galomb '897 do not disclose the present device, as explained in section (b) above. Further, applicant submits that the flanges taught by Aunsit '300 are completely different from the tongue member of the present invention as disclosed in associations with Figs. 9 and 10. The present invention teaches a pulling tongue which is a tab piece connected to the closure near the gap between the male units and/or the female units and allows to pull open the closure with minimal force due to the weak point created by the gap. In contrary, the flanges taught by Aunsit '300 extend the full width of the packet walls and are either the terminal end portions of the closure (68) or the terminal end portions of the packet walls (88, 105). The flanges as taught by Aunsit serve to provide reenforcement to the bag wall pull flanges (col. 6 lines 58-60), namely to the upper rims of the bag which extend above the closure (analogue, for example, to portion 35 in Figs. 1 of the present application). This is completely different from the pulling tongue of the present invention which, when pulled, extends perpendicularly to the closure plane and not at the same plane as Aunsit's flange.

Accordingly, Applicant respectfully argues that combining the teachings of Galomb, McClilinock and Aunsit do not teach the features of the present invention, neither it renders the present invention obvious.

Conclusion

In view of the above amendments and remarks it is respectfully submitted that all pending claims are in condition for allowance. As all grounds of objection and rejection have been addressed and overcome, issuance of a Notice of Allowance of the pending claims are respectfully solicited.

Respectfully submitted,
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